

AMENDED IN ASSEMBLY JUNE 10, 2004

AMENDED IN SENATE MAY 4, 2004

SENATE BILL

No. 1891

**Introduced by Committee on Energy, Utilities and
Communications (Senators Bowen (Chair), Alarcon, Battin,
Dunn, Morrow, Murray, Sher, and Vasconcellos)**

March 1, 2004

An act to amend ~~Section 780.5 of, and Sections 25747, 25748, and 25751 of the Public Resources Code, and to amend Sections 399.11, 399.12, 399.13, 399.14, 399.15, 399.16, and 780.5 of,~~ to amend and renumber Section 454.1 of, *and to repeal Sections 383.5 and 445 of,* the Public Utilities Code, relating to public utilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1891, as amended, Committee on Energy, Utilities and Communications. Public utilities: metering of multiunit residences: electrical transmission facilities: *renewable energy resources*.

(1) Existing law requires the commission to require every residential unit in an apartment house or similar multiunit residential structure, condominium, or mobilehome park issued a building permit on or after July 1, 1982, with certain exceptions, to be individually metered for electric and gas service, except that separate metering for gas service is not required for residential units that are not equipped with gas appliances requiring venting or that receive the majority of energy used for water or space heating from a solar energy system or through cogeneration technology.

This bill would except from the requirement for separate metering for gas service, multiunit residential units which are not equipped with gas

appliances requiring venting or are equipped with only vented decorative appliances or which receive the majority of energy used for water or space heating from a solar energy system or through cogeneration technology.

(2) This bill would amend and renumber a provision of the Public Utilities Code to eliminate a duplicative statutory numbering.

(3) *Under the Public Utilities Act, the Public Utilities Commission requires electrical corporations to identify a separate rate component to fund in-state operation and development of existing and new and emerging renewable resources technologies. This rate component is a nonbypassable element of local distribution and collected on the basis of usage. Existing law requires specified electrical corporations to collect specific amounts to support in-state operation and development of existing and new and emerging renewable resources technologies.*

Existing provisions in the Public Resources Code and Public Utilities Code both require the State Energy Resources Conservation and Development Commission (Energy Commission) to transfer funds collected for in-state operation and development of existing and new and emerging renewable resources technologies into the Renewable Resource Trust Fund and establishes certain accounts in the fund to carry out certain renewable energy purposes. The Public Resources Code requires the Energy Commission to report to the Legislature on the implementation of the Renewable Resource Trust Fund on a quarterly basis and to report on the mechanisms funded by May 31, 2000, and every 2 years thereafter. The Public Utilities Code instead requires the Energy Commission to report to the Legislature on the implementation of the Renewable Resource Trust Fund, and the mechanisms funded, on an annual basis with specified information.

This bill would repeal provisions in the Public Utilities Code pertaining to the creation and administration of the Renewable Resource Trust Fund by the Energy Commission and would amend the provisions in the Public Resources Code to require the Energy Commission to report to the Legislature on the implementation of the Renewable Resource Trust Fund, and the mechanisms funded, on an annual basis with specified information. The bill would make other technical and conforming changes.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.



The people of the State of California do enact as follows:

SECTION 1. *Section 25747 of the Public Resources Code is amended to read:*

25747. (a) The commission shall adopt guidelines governing the funding programs authorized under this chapter, at a publicly noticed meeting offering all interested parties an opportunity to comment. Substantive changes to the guidelines may not be adopted without at least 10 days' written notice to the public. The public notice of meetings required by this subdivision may not be less than 30 days. Notwithstanding any other provision of law, any guidelines adopted pursuant to this chapter *or Section 399.13 of the Public Utilities Code*, shall be exempt from the requirements of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The Legislature declares that the changes made to this subdivision by the act amending this section during the 2002 portion of the 2001–02 Regular Session are declaratory of, and not a change in existing law.

(b) Funds to further the purposes of this chapter may be committed for multiple years.

(c) Awards made pursuant to this chapter are grants, subject to appeal to the commission upon a showing that factors other than those described in the guidelines adopted by the commission were applied in making the awards and payments. Any actions taken by an applicant to apply for, or become or remain eligible and registered to receive, payments or awards, including satisfying conditions specified by the commission, shall not constitute the rendering of goods, services, or a direct benefit to the commission.

SEC. 2. *Section 25748 of the Public Resources Code is amended to read:*

25748. (a) The commission shall report to the Legislature on or before ~~May 31, 2000~~ *March 31, 2004*, and on or before ~~May 31 of every second year~~ *March 31 annually* thereafter, regarding the results of the mechanisms funded pursuant to this chapter. ~~Reports prepared pursuant to this section shall include a~~ *The report shall contain the following elements:*

(1) A description of the allocation of funds among existing, new and emerging technologies; the allocation of funds among programs, including consumer-side incentives; and the need for

1 the reallocation of money among those technologies. ~~The report~~
2 ~~shall identify the~~

3 (2) *The types and quantities of biomass fuels used by facilities*
4 *receiving funds pursuant to Section 25743 and their impacts on*
5 *improving air quality.* ~~The reports shall discuss the~~

6 (3) *The status of account transfers and repayments.*

7 (4) *A description of the cumulative commitment of claims by*
8 *account, the relative demand for funds by account, and a forecast*
9 *of future awards.*

10 (5) *A discussion of the progress being made toward achieving*
11 *the 17-percent target provided in Section 25740 by each funding*
12 *category authorized pursuant to this chapter.* ~~The reports shall also~~
13 ~~address~~

14 (6) *The description of the allocation of funds from interest on*
15 *the accounts described in this chapter, and money in the accounts*
16 *described in subdivision (b) of Section 25751.* ~~Money~~

17 (7) *An itemized list, including project descriptions, award*
18 *amounts, and outcomes for projects awarded funding in the prior*
19 *year.*

20 (8) *Other matters the Energy Commission determines may be*
21 *of importance to the Legislature.*

22 (b) *Money may be reallocated without further legislative action*
23 *among existing, new, and emerging technologies and*
24 *consumer-side programs in a manner consistent with the report*
25 *and with the latest report provided to the Legislature pursuant to*
26 *this section, except that reallocations may not reduce the allocation*
27 *established in Section 25743 nor increase the allocation*
28 *established in Section 25742.*

29 *SEC. 3. Section 25751 of the Public Resources Code is*
30 *amended to read:*

31 25751. (a) The Renewable Resource Trust Fund is hereby
32 created in the State Treasury.

33 (b) The following accounts are hereby established within the
34 Renewable Resource Trust Fund:

35 (1) The Existing Renewable Resources Account.

36 (2) New Renewable Resources Account.

37 (3) Emerging Renewable Resources Account.

38 (4) Customer-Credit Renewable Resource Purchases Account.

39 (5) Renewable Resources Consumer Education Account.

1 (c) The money in the fund may be expended for the state's
2 administration of this article only upon appropriation by the
3 Legislature in the annual Budget Act.

4 (d) Notwithstanding Section 383, that portion of revenues
5 collected by electrical corporations for the benefit of in-state
6 operation and development of existing and new and emerging
7 renewable resource technologies, pursuant to Section 399.8 of the
8 Public Utilities Code, shall be transmitted to the commission at
9 least quarterly for deposit in the Renewable Resource Trust Fund
10 pursuant to Section 399.6 of the Public Utilities Code. After
11 setting aside in the fund money that may be needed for
12 expenditures authorized by the annual Budget Act in accordance
13 with subdivision (c), the Treasurer shall immediately deposit
14 money received pursuant to this section into the accounts created
15 pursuant to subdivision (b) in proportions designated by the
16 commission for the current calendar year. Notwithstanding
17 Section 13340 of the Government Code, the money in the fund and
18 the accounts within the fund are hereby continuously appropriated
19 to the commission without regard to fiscal year for the purposes
20 enumerated in this chapter.

21 (e) Upon notification by the commission, the Controller shall
22 pay all awards of the money in the accounts created pursuant to
23 subdivision (b) for purposes enumerated in this chapter. The
24 eligibility of each award shall be determined solely by the
25 commission based on the procedures it adopts under this chapter.
26 Based on the eligibility of each award, the commission shall also
27 establish the need for a multiyear commitment to any particular
28 award and so advise the Department of Finance. Eligible awards
29 submitted by the commission to the Controller shall be
30 accompanied by information specifying the account from which
31 payment should be made and the amount of each payment; a
32 summary description of how payment of the award furthers the
33 purposes enumerated in this chapter; and an accounting of future
34 costs associated with any award or group of awards known to the
35 commission to represent a portion of a multiyear funding
36 commitment.

37 (f) The commission may transfer funds between accounts for
38 cashflow purposes, provided that the balance due each account is
39 restored and the transfer does not adversely affect any of the
40 accounts. ~~The commission shall examine the cashflow in the~~

1 ~~respective accounts on an annual basis, and shall annually prepare~~
2 ~~and submit to the Legislature a report that describes the status of~~
3 ~~account transfers and repayments.~~

4 (g) ~~The commission shall, on a quarterly basis, report to the~~
5 ~~Legislature on the implementation of this article. Those quarterly~~
6 ~~reports shall be submitted to the Legislature not more than 30 days~~
7 ~~after the close of each quarter and shall include information~~
8 ~~describing the awards submitted to the Controller for payment~~
9 ~~pursuant to this article, the cumulative commitment of claims by~~
10 ~~account, the relative demand for funds by account, a forecast of~~
11 ~~future awards, and other matters the commission determines may~~
12 ~~be of importance to the Legislature.~~

13 (h) ~~The Department of Finance, commencing March 1, 1999,~~
14 ~~shall conduct an independent audit of the Renewable Resource~~
15 ~~Trust Fund and its related accounts annually, and provide an audit~~
16 ~~report to the Legislature not later than March 1 of each year for~~
17 ~~which this article is operative. The Department of Finance's report~~
18 ~~shall include information regarding revenues, payment of awards,~~
19 ~~reserves held for future commitments, unencumbered cash~~
20 ~~balances, and other matters that the Director of Finance determines~~
21 ~~may be of importance to the Legislature.~~

22 *SEC. 4. Section 383.5 of the Public Utilities Code is repealed.*

23 ~~383.5. (a) It is the intent of the Legislature in establishing this~~
24 ~~program, to increase the amount of renewable electricity~~
25 ~~generated per year, so that it equals at least 17 percent of the total~~
26 ~~electricity generated for consumption in California.~~

27 (b) ~~As used in this section, the following terms have the~~
28 ~~following meaning:~~

29 (1) ~~"In-state renewable electricity generation technology"~~
30 ~~means a facility that meets all of the following criteria:~~

31 (A) ~~The facility uses biomass, solar thermal, photovoltaic,~~
32 ~~wind, geothermal, fuel cells using renewable fuels, small~~
33 ~~hydroelectric generation of 30 megawatts or less, digester gas,~~
34 ~~municipal solid waste conversion, landfill gas, ocean wave, ocean~~
35 ~~thermal, or tidal current, and any additions or enhancements to the~~
36 ~~facility using that technology.~~

37 (B) ~~The facility is located in the state or near the border of the~~
38 ~~state with the first point of connection to the Western Electricity~~
39 ~~Coordinating Council (WECC) transmission system located~~
40 ~~within this state.~~

~~(C) For the purposes of this subdivision, “solid waste conversion” means a technology that uses a noncombustion thermal process to convert solid waste to a clean burning fuel for the purpose of generating electricity, and that meets all of the following criteria:~~

~~(i) The technology does not use air or oxygen in the conversion process, except ambient air to maintain temperature control.~~

~~(ii) The technology produces no discharges of air contaminants or emissions, including greenhouse gases as defined in Section 42801 of the Health and Safety Code.~~

~~(iii) The technology produces no discharges to surface or groundwaters of the state.~~

~~(iv) The technology produces no hazardous wastes.~~

~~(v) To the maximum extent feasible, the technology removes all recyclable materials and marketable green waste compostable materials from the solid waste stream prior to the conversion process and the owner or operator of the facility certifies that the those materials will be recycled or composted.~~

~~(vi) The facility at which the technology is used is in compliance with all applicable laws, regulations, and ordinances.~~

~~(vii) The technology meets any other conditions established by the State Energy Resources Conservation and Development Commission.~~

~~(viii) The facility certifies that any local agency sending solid waste to the facility is in compliance with Division 30 (commencing with Section 40000) of the Public Resources Code, has reduced, recycled, or composted solid waste to the maximum extent feasible, and shall have been found by the California Integrated Waste Management Board to have diverted at least 30 percent of all solid waste through source reduction, recycling and composting.~~

~~(2) “Report” means the report entitled “Investing in Renewable Electricity Generation in California” (June 2001, Publication Number P500-00-022) submitted to the Governor and the Legislature by the State Energy Resources Conservation and Development Commission.~~

~~(3) “Energy Commission” means the State Energy Resources Conservation and Development Commission.~~

~~(c) (1) Twenty percent of the funds collected pursuant to paragraph (6) of subdivision (c) of Section 381 shall be used for~~

~~programs that are designed to improve the competitiveness of existing in-state renewable electricity generation technology facilities, and to secure for the state the environmental, economic, and reliability benefits that continued operation of those facilities will provide. Eligibility for incentives under this subdivision shall be limited to those technologies found eligible for funds by the Energy Commission pursuant to paragraphs (5), (6), and (8) of subdivision (c) of Section 399.6.~~

~~(2) Any funds used to support in-state renewable electricity generation technology facilities pursuant to this subdivision shall be expended in accordance with the provisions of the report, subject to all of the following requirements:~~

~~(A) Of the funding for existing renewable electricity generation technology facilities available pursuant to this subdivision, 75 percent shall be used to fund first tier technologies, including biomass and solar electric technologies and 25 percent shall be used to fund second tier wind technologies.~~

~~(B) The Energy Commission shall reexamine the tier structure as proposed in the report and adjust the structure to reflect market and contractual conditions. The Energy Commission shall also consider inflation when adjusting the structure.~~

~~(C) The Energy Commission shall establish a cents per kilowatthour production incentive, not to exceed the payment caps per kilowatthour established in the report, as those payment caps are revised in guidelines adopted by the commission, representing the difference between target prices and the market clearing price for electricity, if sufficient funds are available. If there are insufficient funds in any payment period to pay either the difference between the target and market clearing price or the payment caps, production incentives shall be based on the amount determined by dividing available funds by eligible generation. The market clearing price for electricity shall be determined by the Energy Commission based on the energy prices paid to nonutility power generators as authorized by the commission, or on otherwise available measures of market price. For the first tier biomass technologies, the Energy Commission shall establish a time-differentiated incentive structure that encourages plants to run the maximum feasible amount of time and that provides a higher incentive when the plants are receiving the lowest price. The Energy Commission may establish a different incentive rate~~

1 ~~within the same technology tier to account for discounted~~
2 ~~contracts.~~

3 ~~(D) Facilities that are eligible to receive funding pursuant to~~
4 ~~this subdivision shall be registered in accordance with criteria~~
5 ~~developed by the Energy Commission and those facilities may not~~
6 ~~receive payments for any electricity produced that has any of the~~
7 ~~following characteristics:~~

8 ~~(i) Is sold at monthly average rates equal to or greater than the~~
9 ~~applicable target price, as determined by the Energy Commission.~~

10 ~~(ii) Is that portion of electricity generation attributable to the~~
11 ~~use of qualified agricultural biomass fuel, for a facility that is~~
12 ~~receiving fuel-based incentives through the Agricultural~~
13 ~~Biomass-to-Energy Incentive Grant Program established pursuant~~
14 ~~to Part 3 (commencing with Section 1101) of Division 1 of the~~
15 ~~Food and Agricultural Code. Notwithstanding subdivision (f) of~~
16 ~~Section 1104 of the Food and Agricultural Code, facilities that~~
17 ~~receive funding from the Agricultural Biomass-to-Energy~~
18 ~~Incentive Grant Program are eligible to receive funding pursuant~~
19 ~~to this subdivision.~~

20 ~~(iii) Is used onsite or is sold to customers in a manner that~~
21 ~~excludes competitive transition charge payments, or is otherwise~~
22 ~~excluded from competitive transition charge payments.~~

23 ~~(d) (1) Fifty one and one-half percent of the funds collected~~
24 ~~pursuant to paragraph (6) of subdivision (e) of Section 381, shall~~
25 ~~be used for programs designed to foster the development of new~~
26 ~~in-state renewable electricity generation technology facilities, and~~
27 ~~to secure for the state the environmental, economic, and reliability~~
28 ~~benefits that continued operation of those facilities will provide.~~

29 ~~(2) Any funds used for new in-state renewable electricity~~
30 ~~generation technology facilities pursuant to this subdivision shall~~
31 ~~be expended in accordance with the report, subject to all of the~~
32 ~~following requirements:~~

33 ~~(A) In order to cover the above market costs of renewable~~
34 ~~resources as approved by the commission and selected by retail~~
35 ~~sellers to fulfill their obligations under Article 16 (commencing~~
36 ~~with Section 399.11), the Energy Commission shall award funds~~
37 ~~in the form of supplemental energy payments, subject to the~~
38 ~~following criteria:~~

39 ~~(i) The Energy Commission may establish caps on~~
40 ~~supplemental energy payments. The caps shall be designed to~~

1 provide for a viable energy market capable of achieving the goals
2 of Article 16 (commencing with Section 399.11). The Energy
3 Commission may waive application of the caps to accommodate
4 a facility, if it is demonstrated to the satisfaction of the Energy
5 Commission, that operation of the facility would provide
6 substantial economic and environmental benefits to end use
7 customers subject to the funding requirements of Section 381.

8 (ii) Supplemental energy payments shall be awarded only to
9 facilities that are eligible for funding under this subdivision.

10 (iii) Supplemental energy payments awarded to facilities
11 selected by an electrical corporation pursuant to Article 16
12 (commencing with Section 399.11) shall be paid for the lesser of
13 10 years, or the duration of the contract with the electrical
14 corporation.

15 (iv) The Energy Commission shall reduce or terminate
16 supplemental energy payments for projects that fail either to
17 commence and maintain operations consistent with the contractual
18 obligations to an electrical corporation, or that fail to meet
19 eligibility requirements.

20 (v) Funds shall be managed in an equitable manner in order for
21 retail sellers to meet their obligation under Article 16
22 (commencing with Section 399.11).

23 (B) The Energy Commission may determine as part of a
24 solicitation, that a facility that does not meet the definition of
25 “in-state renewable electricity generation technology” facility
26 solely because it is located outside the state, is eligible for funding
27 under this subdivision if it meets both of the following
28 requirements:

29 (i) It is located so that it is or will be connected to the Western
30 Electricity Coordinating Council (WECC) transmission system.

31 (ii) It is developed with guaranteed contracts to sell its
32 generation to end use customers subject to the funding
33 requirements of Section 381, or to marketers that provide this
34 guarantee for resale of the generation, for a period of time at least
35 equal to the amount of time it receives incentive payments under
36 this subdivision.

37 (C) Facilities that are eligible to receive funding pursuant to
38 this subdivision shall be registered in accordance with criteria
39 developed by the Energy Commission and those facilities may not

1 receive payments for any electricity produced that has any of the
2 following characteristics:

3 (i) ~~Is sold under an existing long-term contract with an existing~~
4 ~~in-state electrical corporation if the contract includes fixed energy~~
5 ~~or capacity payments, except for that electricity that satisfies the~~
6 ~~provisions of subparagraph (C) of paragraph (1) of subdivision (c)~~
7 ~~of Section 399.6.~~

8 (ii) ~~Is used onsite or is sold to customers in a manner that~~
9 ~~excludes competitive transition charge payments, or is otherwise~~
10 ~~excluded from competitive transition charge payments.~~

11 (iii) ~~Is produced by a facility that is owned by an electrical~~
12 ~~corporation or a local publicly owned electric utility as defined in~~
13 ~~subdivision (d) of Section 9604.~~

14 (iv) ~~Is a hydroelectric generation project that will require a new~~
15 ~~or increased appropriation of water under Part 2 (commencing~~
16 ~~with Section 1200) of Division 2 of the Water Code.~~

17 (D) ~~Eligibility to compete for funds or to receive funds shall be~~
18 ~~contingent upon having to sell the output of the renewable~~
19 ~~electricity generation facility to customers subject to the funding~~
20 ~~requirements of Section 381.~~

21 (E) ~~The Energy Commission may require applicants~~
22 ~~competing for funding to post a forfeitable bid bond or other~~
23 ~~financial guaranty as an assurance of the applicant's intent to move~~
24 ~~forward expeditiously with the project proposed. The amount of~~
25 ~~any bid bond or financial guaranty may not exceed 10 percent of~~
26 ~~the total amount of the funding requested by the applicant.~~

27 (F) ~~In awarding funding, the Energy Commission may provide~~
28 ~~preference to projects that provide tangible demonstrable benefits~~
29 ~~to communities with a plurality of minority or low-income~~
30 ~~populations.~~

31 (3) ~~Repowered existing facilities shall be eligible for funding~~
32 ~~under this subdivision if the capital investment to repower the~~
33 ~~existing facility equals at least 80 percent of the value of the~~
34 ~~repowered facility.~~

35 (4) ~~Facilities engaging in the combustion of municipal solid~~
36 ~~waste or tires are not eligible for funding under this subdivision.~~

37 (5) ~~Production incentives awarded under this subdivision prior~~
38 ~~to January 1, 2002, shall commence on the date that a project~~
39 ~~begins electricity production, provided that the project was~~
40 ~~operational prior to January 1, 2002, unless the Energy~~

~~Commission finds that the project will not be operational prior to January 1, 2002, due to circumstances beyond the control of the developer. Upon making a finding that the project will not be operational due to circumstances beyond the control of the developer, the Energy Commission shall pay production incentives over a five-year period, commencing on the date of operation, provided that the date that a project begins electricity production may not extend beyond January 1, 2007.~~

~~(6) Facilities generating electricity from biomass energy shall be considered an in-state renewable electricity generation technology facility to the extent that they certify to the satisfaction of the Energy Commission that fuel utilization is limited to the following:~~

~~(A) Agricultural crops and agricultural wastes and residues.~~

~~(B) Solid waste materials such as waste pallets, crates, dunnage, manufacturing, and construction wood wastes, landscape or right-of-way tree trimmings, mill residues that are directly the result of the milling of lumber, and rangeland maintenance residues.~~

~~(C) Wood and wood wastes that meet all of the following requirements:~~

~~(i) Have been harvested pursuant to an approved timber harvest plan prepared in accordance with the Z'berg-Nejedly Forest Practice Act of 1973 (Chapter 8 (commencing with Section 4511), Part 2, Division 4, Public Resource Code).~~

~~(ii) Have been harvested for the purpose of forest fire fuel reduction or forest stand improvement.~~

~~(iii) Do not transport or cause the transportation of species known to harbor insect or disease nests outside zones of infestation or current quarantine zones, as identified by the Department of Food and Agriculture or the Department of Forestry and Fire Protection, unless approved by the Department of Food and Agriculture and the Department of Forestry and Fire Protection.~~

~~(e) (1) Seventeen and one-half percent of the funds collected pursuant to paragraph (6) of subdivision (c) of Section 381 shall be used for a multiyear, consumer-based program to foster the development of emerging renewable technologies in distributed generation applications.~~

1 ~~(2) Any funds used for emerging technologies pursuant to this~~
2 ~~subdivision shall be expended in accordance with the report,~~
3 ~~subject to all of the following requirements:~~

4 ~~(A) Funding for emerging technologies shall be provided~~
5 ~~through a competitive, market-based process that shall be in place~~
6 ~~for a period of not less than five years, and shall be structured so~~
7 ~~as to allow eligible emerging technology manufacturers and~~
8 ~~suppliers to anticipate and plan for increased sale and installation~~
9 ~~volumes over the life of the program.~~

10 ~~(B) The program shall provide monetary rebates, buydowns, or~~
11 ~~equivalent incentives, subject to subparagraph (C), to purchasers,~~
12 ~~lessees, lessors, or sellers of eligible electricity generating~~
13 ~~systems. Incentives shall benefit the end-use consumer of~~
14 ~~renewable generation by directly and exclusively reducing the~~
15 ~~purchase or lease cost of the eligible system, or the cost of~~
16 ~~electricity produced by the eligible system. Incentives shall be~~
17 ~~issued on the basis of the rated electrical capacity of the system~~
18 ~~measured in watts, or in the amount of electricity production of the~~
19 ~~system, measured in kilowatthours, determined by the Energy~~
20 ~~Commission.~~

21 ~~(C) Eligible distributed emerging technologies are~~
22 ~~photovoltaic, solar thermal electric, fuel cell technologies that~~
23 ~~utilize renewable fuels, and wind turbines of not more than 50~~
24 ~~kilowatts rated electrical generating capacity per customer site,~~
25 ~~and other distributed renewable emerging technologies that meet~~
26 ~~the emerging technology eligibility criteria established by the~~
27 ~~Energy Commission. Eligible electricity generating systems are~~
28 ~~intended primarily to offset part or all of the consumer's own~~
29 ~~electricity demand, and shall not be owned by local publicly~~
30 ~~owned electric utilities, nor be located at a customer site that is not~~
31 ~~receiving distribution service from an electrical corporation that~~
32 ~~is subject to Section 381 and contributing funds to support~~
33 ~~programs under this section. All eligible electricity generating~~
34 ~~system components shall be new and unused, and shall not have~~
35 ~~been previously placed in service in any other location or for any~~
36 ~~other application, and shall have a warranty of not less than five~~
37 ~~years to protect against defects and undue degradation of electrical~~
38 ~~generation output. Systems and their fuel resource shall be located~~
39 ~~on the same premises of the end-use consumer where the~~
40 ~~consumer's own electricity demand is located, and all eligible~~

1 electricity generating systems shall be connected to the utility grid
2 in California. The Energy Commission may require eligible
3 electricity generating systems to have meters in place to monitor
4 and measure a system's performance and generation. Only
5 systems that will be operated in compliance with applicable law
6 and the rules of the commission shall be eligible for funding.

7 (D) The Energy Commission shall limit the amount of funds
8 available for any system or project of multiple systems and reduce
9 the level of funding for any system or project of multiple systems
10 that has received, or may be eligible to receive, any government
11 or utility funds, incentives, or credit.

12 (E) In awarding funding, the Energy Commission may provide
13 preference to systems that provide tangible demonstrable benefits
14 to communities with a plurality of minority or low income
15 populations.

16 (F) In awarding funding, the Energy Commission shall develop
17 and implement eligibility criteria and a system that provides
18 preference to systems based upon system performance, taking into
19 account factors, including, but not limited to, shading, insolation
20 levels, and installation orientation.

21 (f) (1) Ten percent of the funds collected pursuant to paragraph
22 (6) of subdivision (c) of Section 381 shall be used to provide
23 customer credits to customers that entered into a direct transaction
24 on or before September 20, 2001, for purchases of electricity
25 produced by registered in-state renewable electricity generating
26 facilities.

27 (2) Any funds used for customer credits pursuant to this
28 subdivision shall be expended, as provided in the report, subject
29 to the following requirements:

30 (A) Customer credits shall be awarded to California retail
31 customers located in the service territory of an electrical
32 corporation that is subject to Section 381 that is contributing funds
33 to support programs under this section, and that is purchasing
34 qualifying electricity from renewable electricity generating
35 facilities, through transactions traceable to specific generation
36 sources by any auditable contract trail or equivalent that provides
37 commercial verification that the electricity from the claimed
38 renewable electricity generating facilities has been sold once and
39 only once to a retail customer.

~~(B) Credits awarded pursuant to this paragraph may be paid directly to electric service providers, energy marketers, aggregators, or generators if those persons or entities account for the credits on the recipient customer's utility bills. Credits may not exceed one and one-half cents (\$0.015) per kilowatthour. Credits awarded to members of the combined class of customers, other than residential and small commercial customers, may not exceed one thousand dollars (\$1,000) per customer per calendar year. In no event may more than 20 percent of the total customer incentive funds be awarded to members of the combined class of customers other than residential and small commercial customers.~~

~~(C) The Energy Commission shall develop criteria and procedures for the identification of energy purchasers and providers that are eligible to receive funds pursuant to this paragraph through a process consistent with this paragraph. These criteria and procedures shall apply only to funding eligibility and may not extend to other renewable marketing claims.~~

~~(D) The commission shall notify the Energy Commission in writing within 10 days of revoking or suspending the registration of any electric service provider pursuant to paragraph (4) of subdivision (b) of Section 394.25.~~

~~(E) By March 31, 2003, the Energy Commission shall report to the Governor and the Legislature on how to most effectively utilize the funds for customer credits, including whether, and under what conditions, the program should be continued. The report shall include an examination of trends in markets for renewable energy, including the trading of nonenergy attributes, and the role of customer credits in these markets. The report will recommend an appropriate funding allocation for the customer credits and how implementation of the customer credits should be structured, if appropriate.~~

~~(F) Customer credits may not be awarded for the purchase of electricity that is used to meet the obligations of a renewable portfolio standard.~~

~~(g) One percent of the funds collected pursuant to paragraph (6) of subdivision (e) of Section 381 shall be used in accordance with the report to promote renewable energy and to disseminate information on renewable energy technologies, including emerging renewable technologies, and to help develop a consumer~~

~~1 market for renewable energy and for small-scale emerging
2 renewable energy technologies.~~

~~3 (h) (1) The Energy Commission shall adopt guidelines
4 governing the funding programs authorized under this section and
5 Section 399.13, at a publicly noticed meeting offering all
6 interested parties an opportunity to comment. Substantive changes
7 to the guidelines may not be adopted without at least 10 days'
8 written notice to the public. The public notice of meetings required
9 by this paragraph may not be less than 30 days. Notwithstanding
10 any other provision of law, any guidelines adopted pursuant to this
11 section shall be exempt from the requirements of Chapter 3.5
12 (commencing with Section 11340) of Division 3 of Title 2 of the
13 Government Code. The Legislature declares that the changes
14 made to this paragraph by the act amending this section during the
15 2002 portion of the 2001-02 Regular Session are declaratory of,
16 and not a change in existing law.~~

~~17 (2) Funds to further the purposes of this section may be
18 committed for multiple years.~~

~~19 (3) Awards made pursuant to this section are grants, subject to
20 appeal to the Energy Commission upon a showing that factors
21 other than those described in the guidelines adopted by the Energy
22 Commission were applied in making the awards and payments.
23 Any actions taken by an applicant to apply for, or become or
24 remain eligible and registered to receive, payments or awards,
25 including satisfying conditions specified by the Energy
26 Commission, shall not constitute the rendering of goods, services,
27 or a direct benefit to the Energy Commission.~~

~~28 (i) The Energy Commission shall report to the Legislature on
29 or before March 31, 2004, and annually thereafter, regarding the
30 results of the mechanisms funded pursuant to this section. The
31 report shall contain the following elements:~~

~~32 (A) A description of the allocation of funds among existing,
33 new and emerging technologies; the allocation of funds among
34 programs, including consumer-side incentives; and the need for
35 the reallocation of money among those technologies.~~

~~36 (B) The status of account transfers and repayments.~~

~~37 (C) A description of the cumulative commitment of claims by
38 account, the relative demand for funds by account, and a forecast
39 of future awards.~~

~~(D) A discussion of the progress being made toward achieving the 17 percent target provided in subdivision (a) by each funding category authorized pursuant to subdivisions (c), (d), (e), (f), and (g) of this section.~~

~~(E) The description of the allocation of funds from interest on the accounts described in this section, and money in the accounts described in subdivision (e) of Section 381.~~

~~(F) An itemized list, including project descriptions, award amounts, and outcomes for projects awarded funding in the prior year.~~

~~(G) Other matters the Energy Commission determines may be of importance to the Legislature.~~

~~(2) Notwithstanding subdivisions (c), (d), (e), (f), and (g) of this section, money may be reallocated without further legislative action among existing, new, and emerging technologies and consumer-side programs in a manner consistent with the report and with the latest report provided to the Legislature pursuant to this subdivision, except that reallocations may not reduce the allocation established in subdivision (d) nor increase the allocation established in subdivision (e).~~

~~(j) The Energy Commission shall, by December 1, 2003, prepare and submit to the Legislature a comprehensive renewable electricity generation resource plan that describes the renewable resource potential available in California, and recommendations for a plan for development to achieve the target of increasing the amount of electricity generated from renewable sources per year, so that it equals 17 percent of the total electricity generated for consumption in California by 2006. The Energy Commission shall consult with the commission, electrical corporations, and the Independent System Operator, in the development and preparation of the plan.~~

~~(k) The Energy Commission shall participate in proceedings at the commission that relate to or affect efforts to stimulate the development of electricity generated from renewable sources, in order to obtain coordination of the state's efforts to achieve the target of increasing the amount of electricity generated from renewable sources per year, so that it equals 17 percent of the total electricity generated for consumption in California by 2006.~~

SEC. 5. Section 399.11 of the Public Utilities Code is amended to read:

1 399.11. The Legislature finds and declares all of the
2 following:

3 (a) In order to attain a target of 20 percent renewable energy for
4 the State of California and for the purposes of increasing the
5 diversity, reliability, public health and environmental benefits of
6 the energy mix, it is the intent of the Legislature that the California
7 Public Utilities Commission and the State Energy Resources
8 Conservation and Development Commission implement the
9 California Renewables Portfolio Standard Program described in
10 this article.

11 (b) Increasing California's reliance on renewable energy
12 resources may promote stable electricity prices, protect public
13 health, improve environmental quality, stimulate sustainable
14 economic development, create new employment opportunities,
15 and reduce reliance on imported fuels.

16 (c) The development of renewable energy resources may
17 ameliorate air quality problems throughout the state and improve
18 public health by reducing the burning of fossil fuels and the
19 associated environmental impacts.

20 (d) The California Renewables Portfolio Standard Program is
21 intended to complement the Renewable Energy Program
22 administered by the State Energy Resources Conservation and
23 Development Commission and established pursuant to ~~Sections~~
24 ~~383.5 and 445~~ Chapter 8.6 (commencing with Section 25740) of
25 Division 15 of the Public Resources Code.

26 SEC. 6. Section 399.12 of the Public Utilities Code is
27 amended to read:

28 399.12. For purposes of this article, the following terms have
29 the following meanings:

30 (a) (1) "Eligible renewable energy resource" means an
31 electric generating facility that is one of the following:

32 (1) The facility meets the definition of "in-state renewable
33 electricity generation ~~technology~~ facility" in Section ~~383.5~~ 25741
34 of the Public Resources Code.

35 (2) A geothermal generation facility originally commencing
36 operation prior to September 26, 1996, shall be eligible for
37 purposes of adjusting a retail seller's baseline quantity of eligible
38 renewable energy resources except for output certified as
39 incremental geothermal production by the Energy Commission,
40 provided that the incremental output was not sold to an electrical

corporation under contract entered into prior to September 26, 1996. For each facility seeking certification, the Energy Commission shall determine historical production trends and establish criteria for measuring incremental geothermal production that recognizes the declining output of existing steamfields and the contribution of capital investments in the facility or wellfield.

(3) The output of a small hydroelectric generation facility of 30 megawatts or less procured or owned by an electrical corporation as of the date of enactment of this article shall be eligible only for purposes of establishing the baseline of an electrical corporation pursuant to paragraph (3) of subdivision (a) of Section 399.15. A new hydroelectric facility is not an eligible renewable energy resource if it will require a new or increased appropriation or diversion of water under Part 2 (commencing with Section 1200) of Division 2 of the Water Code.

(4) A facility engaged in the combustion of municipal solid waste shall not be considered an eligible renewable resource unless it is located in Stanislaus County and was operational prior to September 26, 1996. Output from such facilities shall be eligible only for the purpose of adjusting a retail seller's baseline quantity of eligible renewable energy resources.

(b) *"Energy Commission" means the State Energy Resources Conservation and Development Commission.*

(c) *"Retail seller" means an entity engaged in the retail sale of electricity to end-use customers, including any of the following:*

(1) An electrical corporation, as defined in Section 218.

(2) A community choice aggregator. The commission shall institute a rulemaking to determine the manner in which a community choice aggregator will participate in the renewables portfolio standard subject to the same terms and conditions applicable to an electrical corporation.

(3) An electric service provider, as defined in Section 218.3 subject to the following conditions:

(A) An electric service provider shall be considered a retail seller under this article for sales to any customer acquiring service after January 1, 2003.

(B) An electric service provider shall be considered a retail seller under this article for sales to all its customers beginning on the earlier of January 1, 2006, or the date on which a contract

1 between an electric service provider and a retail customer expires.
2 Nothing on this subdivision may require an electric service
3 provider to disclose the terms of the contract to the commission.

4 (C) The commission shall institute a rulemaking to determine
5 the manner in which electric service providers will participate in
6 the renewables portfolio standard. The electric service provider
7 shall be subject to the same terms and conditions applicable to an
8 electrical corporation pursuant to this article. Nothing in this
9 paragraph shall impair a contract entered into between an electric
10 service provider and a retail customer prior to the suspension of
11 direct access by the commission pursuant to Section 80110 of the
12 Water Code.

13 (4) “Retail seller” does not include any of the following:

14 (A) A corporation or person employing cogeneration
15 technology or producing power consistent with subdivision (b) of
16 Section 218.

17 (B) The Department of Water Resources acting in its capacity
18 pursuant to Division 27 (commencing with Section 80000) of the
19 Water Code.

20 (C) A local publicly owned electrical utility as defined in
21 subdivision (d) of Section 9604.

22 (c) “Renewables portfolio standard” means the specified
23 percentage of electricity generated by eligible renewable energy
24 resources that a retail seller is required to procure pursuant to
25 Sections 399.13 and 399.15.

26 *SEC. 7. Section 399.13 of the Public Utilities Code is*
27 *amended to read:*

28 399.13. The Energy Commission shall do all of the following:

29 (a) Certify eligible renewable energy resources that it
30 determines meet the criteria described in subdivision (a) of Section
31 399.12.

32 (b) Design and implement an accounting system to verify
33 compliance with the renewables portfolio standard by retail
34 sellers, to ensure that renewable energy output is counted only
35 once for the purpose of meeting the renewables portfolio standard
36 of this state or any other state, and for verifying retail product
37 claims in this state or any other state. In establishing the guidelines
38 governing this system, the Energy Commission shall collect data
39 from electricity market participants that it deems necessary to
40 verify compliance of retail sellers, in accordance with the

requirements of this article and the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code). In seeking data from electrical corporations, the Energy Commission shall request data from the commission. The commission shall collect data from electrical corporations and remit the data to the Energy Commission within 90 days of the request.

(c) Allocate and award supplemental energy payments pursuant to Section ~~383.5~~ *Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code*, to eligible renewable energy resources to cover above-market costs of renewable energy.

SEC. 8. Section 399.14 of the Public Utilities Code is amended to read:

399.14. (a) The commission shall direct each electrical corporation to prepare renewable energy procurement plans as described in paragraph (3) to satisfy its obligations under the renewables portfolio standard. To the extent feasible, this procurement plan shall be proposed, reviewed, and adopted by the commission as part of, and pursuant to, a general procurement plan process. The commission shall require each electrical corporation to review and update its renewable energy procurement plan as it determines to be necessary.

(1) (A) The commission shall not require an electrical corporation to conduct procurement to fulfill the renewables portfolio standard until the commission determines either of the following:

(i) The electrical corporation has attained an investment grade credit rating as determined by at least two major rating agencies.

(ii) The electrical corporation is able to procure eligible renewable energy resources on reasonable terms, those resources can be financed if necessary, and the procurement will not impair the restoration of an electrical corporation's creditworthiness. This provision shall not apply before April 1, 2004, for any electrical corporation that on June 30, 2003, is in federal court under Chapter 11 of the federal bankruptcy law.

(B) Within 90 days of the commission's determination as provided in subparagraph (A), an electrical corporation shall conduct solicitations to implement a renewable energy procurement plan. The determination required by this paragraph

1 shall apply only to the requirements established pursuant to this
2 article. The requirements established for an electrical corporation
3 pursuant to Section 454.5 shall be governed by that section.

4 (2) Not later than six months after the effective date of this
5 section, the commission shall adopt, by rule, for all electrical
6 corporations, all of the following:

7 (A) A process for determining market prices pursuant to
8 subdivision (c) of Section 399.15. The commission shall make
9 specific determinations of market prices after the closing date of
10 a competitive solicitation conducted by an electrical corporation
11 for eligible renewable energy resources. In order to ensure that the
12 market price established by the commission pursuant to
13 subdivision (c) of Section 399.15 does not influence the amount
14 of a bid submitted through the competitive solicitation in a manner
15 that would increase the amount ratepayers are obligated to pay for
16 renewable energy, and in order to ensure that the bid price does not
17 influence the establishment of the market price, the electrical
18 corporation shall not transmit or share the results of any
19 competitive solicitation for eligible renewable energy resources
20 until the commission has established market prices pursuant to
21 subdivision (c) of Section 399.15.

22 (B) A process that provides criteria for the rank ordering and
23 selection of least-cost and best-fit renewable resources to comply
24 with the annual California Renewables Portfolio Standard
25 Program obligations on a total cost basis. This process shall
26 consider estimates of indirect costs associated with needed
27 transmission investments and ongoing utility expenses resulting
28 from integrating and operating eligible renewable energy
29 resources.

30 (C) Flexible rules for compliance including, but not limited to,
31 permitting electrical corporations to apply excess procurement in
32 one year to subsequent years or inadequate procurement in one
33 year to no more than the following three years.

34 (D) Standard terms and conditions to be used by all electrical
35 corporations in contracting for eligible renewable energy
36 resources, including performance requirements for renewable
37 generators.

38 (3) Consistent with the goal of procuring the least-cost and
39 best-fit eligible renewable energy resources, the renewable energy



1 procurement plan submitted by an electrical corporation shall
2 include, but is not limited to, all of the following:

3 (A) An assessment of annual or multiyear portfolio supplies
4 and demand to determine the optimal mix of renewable generation
5 resources with deliverability characteristics that may include
6 peaking, dispatchable, baseload, firm, and as-available capacity.

7 (B) Provisions for employing available compliance flexibility
8 mechanisms established by the commission.

9 (C) A bid solicitation setting forth the need for renewable
10 generation of each deliverability characteristic, required online
11 dates, and locational preferences, if any.

12 (4) In soliciting and procuring eligible renewable energy
13 resources, each electrical corporation shall offer contracts of no
14 less than 10 years in duration, unless the commission approves of
15 a contract of shorter duration.

16 (5) In soliciting and procuring eligible renewable energy
17 resources, each electrical corporation may give preference to
18 projects that provide tangible demonstrable benefits to
19 communities with a plurality of minority or low-income
20 populations.

21 (b) The commission shall review and accept, modify, or reject
22 each electrical corporation's renewable procurement plan 90 days
23 prior to the commencement of renewable procurement pursuant to
24 this article by the electrical corporation.

25 (c) The commission shall review the results of a renewable
26 energy resources solicitation submitted for approval by an
27 electrical corporation and accept or reject proposed contracts with
28 eligible renewable energy resources based on consistency with the
29 approved renewable procurement plan. If the commission
30 determines that the bid prices are elevated due to a lack of effective
31 competition amongst the bidders, the commission shall direct the
32 electrical corporation to renegotiate such contracts or conduct a
33 new solicitation.

34 (d) If an electrical corporation fails to comply with a
35 commission order adopting a renewable procurement plan, the
36 commission shall exercise its authority pursuant to Section 2113
37 to require compliance.

38 (e) Upon application by an electrical corporation, the
39 commission may authorize another entity to enter into contracts on
40 behalf of customers of the electrical corporation for deliveries of

1 eligible renewable energy resources to satisfy the annual portfolio
2 standard obligations, subject to similar terms and conditions
3 applicable to an electrical corporation. The commission shall
4 allow the procurement entity to recover reasonable costs through
5 retail rates subject to review and approval.

6 (f) Procurement and administrative costs associated with
7 long-term contracts entered into by an electrical corporation for
8 eligible renewable energy resources pursuant to this article, at or
9 below the market price determined by the commission pursuant to
10 subdivision (c) of Section 399.15, shall be deemed reasonable per
11 se, and shall be recoverable in rates.

12 (g) For purposes of this article, “procure” means that a utility
13 may acquire the renewable output of electric generation facilities
14 that it owns or for which it has contracted. Nothing in this article
15 is intended to imply that the purchase of electricity from third
16 parties in a wholesale transaction is the preferred method of
17 fulfilling a retail seller’s obligation to comply with this article.

18 (h) Construction, alteration, demolition, installation, and
19 repair work on an eligible renewable energy resource that receives
20 production incentives or supplemental energy payments pursuant
21 to ~~Section 383.5~~ *Sections 25742 and 25743 of the Public*
22 *Resources Code*, including, but not limited to, work performed to
23 qualify, receive, or maintain production incentives or
24 supplemental energy payments is “public works” for the purposes
25 of Chapter 1 (commencing with Section 1720) of Part 7 of
26 Division 2 of the Labor Code.

27 *SEC. 9. Section 399.15 of the Public Utilities Code is*
28 *amended to read:*

29 399.15. (a) In order to fulfill unmet long-term resource
30 needs, the commission shall establish a renewables portfolio
31 standard requiring all electrical corporations to procure a
32 minimum quantity of output from eligible renewable energy
33 resources as a specified percentage of total kilowatthours sold to
34 their retail end-use customers each calendar year, if sufficient
35 funds are made available pursuant to paragraph (2), and ~~Sections~~
36 *Section 399.6 and 383.5 Chapter 8.6 (commencing with Section*
37 *25740) of Division 15 of the Public Resources Code*, to cover the
38 above-market costs of eligible renewables, and subject to all of the
39 following:

(1) An electric corporation shall not be required to enter into long-term contracts with eligible renewable energy resources that exceed the market prices established pursuant to subdivision (c) of this section.

(2) The Energy Commission shall provide supplemental energy payments from funds in the New Renewable Resources Account in the Renewable Resource Trust Fund to eligible renewable energy resources pursuant to ~~Section 383.5~~ *Chapter 8.6 (commencing with Section 25740) of Division 15 of the Public Resources Code*, consistent with this article, for above-market costs. Indirect costs associated with the purchase of eligible renewable energy resources, such as imbalance energy charges, sale of excess energy, decreased generation from existing resources, or transmission upgrades shall not be eligible for supplemental energy payments, but shall be recoverable by an electrical corporation in rates, as authorized by the commission.

(3) For purposes of setting annual procurement targets, the commission shall establish an initial baseline for each electrical corporation based on the actual percentage of retail sales procured from eligible renewable energy resources in 2001, and, to the extent applicable, adjusted going forward pursuant to subdivision (a) of Section 399.12.

(b) The commission shall implement annual procurement targets for each electrical corporation as follows:

(1) Beginning on January 1, 2003, each electrical corporation shall, pursuant to subdivision (a), increase its total procurement of eligible renewable energy resources by at least an additional 1 percent of retail sales per year so that 20 percent of its retail sales are procured from eligible renewable energy resources no later than December 31, 2017. An electrical corporation with 20 percent of retail sales procured from eligible renewable energy resources in any year shall not be required to increase its procurement of such resources in the following year.

(2) Only for purposes of establishing these targets, the commission shall include all power sold to retail customers by the Department of Water Resources pursuant to Section 80100 of the Water Code in the calculation of retail sales by an electrical corporation.

(3) In the event that an electrical corporation fails to procure sufficient eligible renewable energy resources in a given year to

1 meet any annual target established pursuant to this subdivision, the
2 electrical corporation shall procure additional eligible renewable
3 energy resources in subsequent years to compensate for the
4 shortfall if sufficient funds are made available pursuant to
5 paragraph (2), and ~~Sections 399.6 and 383.5~~ *Section 399.6 and*
6 *Chapter 8.6 (commencing with Section 25740) of Division 15 of*
7 *the Public Resources Code*, to cover the above-market costs of
8 eligible renewables.

9 (4) If supplemental energy payments from the Energy
10 Commission, in combination with the market prices approved by
11 the commission, are insufficient to cover the above-market costs
12 of eligible renewable energy resources, the commission shall
13 allow an electrical corporation to limit its annual procurement
14 obligation to the quantity of eligible renewable energy resources
15 that can be procured with available supplemental energy
16 payments.

17 (c) The commission shall establish a methodology to determine
18 the market price of electricity for terms corresponding to the
19 length of contracts with renewable generators, in consideration of
20 the following:

21 (1) The long-term market price of electricity for fixed price
22 contracts, determined pursuant to the electrical corporation's
23 general procurement activities as authorized by the commission.

24 (2) The long-term ownership, operating, and fixed-price fuel
25 costs associated with fixed-price electricity from new generating
26 facilities.

27 (3) The value of different products including baseload,
28 peaking, and as-available output.

29 (d) The establishment of a renewables portfolio standard shall
30 not constitute implementation by the commission of the federal
31 Public Utility Regulatory Policies Act of 1978 (Public Law
32 95-617).

33 (e) The commission shall consult with the Energy Commission
34 in calculating market prices under subdivision (c) and establishing
35 other renewables portfolio standard policies.

36 *SEC. 10. Section 399.16 of the Public Utilities Code is*
37 *amended to read:*

38 399.16. The ~~commission~~ *Energy Commission* may consider
39 an electric generating facility that is located outside the state to be

1 an eligible renewable energy resource if it meets the criteria
2 described in Section 399.12 and all of the following requirements:

3 (a) It is located so that it is, or will be, connected to the Western
4 Electricity Coordinating Council (WECC) transmission system.

5 (b) It is developed with guaranteed contracts to sell its
6 generation, and demonstrates delivery of energy, to a retail seller
7 or the Independent System Operator.

8 (c) It participates in the accounting system to verify
9 compliance with the renewables portfolio standard by retail
10 sellers, once established by the ~~State Energy Resources~~
11 ~~Conservation and Development~~ Commission pursuant to
12 subdivision (b) of Section 399.13.

13 *SEC. 11. Section 445 of the Public Utilities Code is repealed.*

14 ~~445. (a) The Renewable Resource Trust Fund is hereby~~
15 ~~created in the State Treasury.~~

16 ~~(b) The following accounts are hereby created within the~~
17 ~~Renewable Resource Trust Fund:~~

18 ~~(1) The Existing Renewable Resources Account.~~

19 ~~(2) New Renewable Resources Account.~~

20 ~~(3) Emerging Renewable Resources Account.~~

21 ~~(4) Customer Credit Renewable Resource Purchases Account.~~

22 ~~(5) Renewable Resources Consumer Education Account.~~

23 ~~(c) The money in the fund may be expended for the state's~~
24 ~~administration of this article only upon appropriation by the~~
25 ~~Legislature in the annual Budget Act.~~

26 ~~(d) Notwithstanding Section 383, that portion of revenues~~
27 ~~collected by electrical corporations for the benefit of in-state~~
28 ~~operation and development of existing and new and emerging~~
29 ~~renewable resource technologies, pursuant to paragraphs (3) and~~
30 ~~(6) of subdivision (c) of Section 381, shall be transmitted to the~~
31 ~~State Energy Resources Conservation and Development~~
32 ~~Commission (hereafter the Energy Commission) at least quarterly~~
33 ~~for deposit in the Renewable Resource Trust Fund. After setting~~
34 ~~aside in the fund money that may be needed for expenditures~~
35 ~~authorized by the annual Budget Act in accordance with~~
36 ~~subdivision (c), the Treasurer shall immediately deposit money~~
37 ~~received pursuant to this section into the accounts created pursuant~~
38 ~~to subdivision (b) in proportions designated by the Energy~~
39 ~~Commission for the current calendar year. Notwithstanding~~
40 ~~Section 13340 of the Government Code, the money in the fund and~~

1 the accounts within the fund are hereby continuously appropriated
2 to the Energy Commission without regard to fiscal year for the
3 purposes enumerated in Section 383.5.

4 ~~(e) Upon notification by the Energy Commission, the~~
5 ~~Controller shall pay all awards of the money in the accounts~~
6 ~~created pursuant to subdivision (b) for purposes enumerated in~~
7 ~~Section 383.5. The eligibility of each award shall be determined~~
8 ~~solely by the Energy Commission based on the procedures it~~
9 ~~adopts under subdivision (h) of Section 383.5. Based on the~~
10 ~~eligibility of each award, the Energy Commission shall also~~
11 ~~establish the need for a multiyear commitment to any particular~~
12 ~~award and so advise the Department of Finance. Eligible awards~~
13 ~~submitted by the Energy Commission to the Controller shall be~~
14 ~~accompanied by information specifying the account from which~~
15 ~~payment should be made and the amount of each payment; a~~
16 ~~summary description of how payment of the award furthers the~~
17 ~~purposes enumerated in Section 383.5; and an accounting of future~~
18 ~~costs associated with any award or group of awards known to the~~
19 ~~Energy Commission to represent a portion of a multiyear funding~~
20 ~~commitment.~~

21 ~~(f) The Energy Commission may transfer funds between~~
22 ~~accounts for cashflow purposes, provided that the balance due~~
23 ~~each account is restored and the transfer does not adversely affect~~
24 ~~any of the accounts.~~

25 ~~(g) The Department of Finance, commencing March 1, 1999,~~
26 ~~shall conduct an independent audit of the Renewable Resource~~
27 ~~Trust Fund and its related accounts annually, and provide an audit~~
28 ~~report to the Legislature not later than March 1 of each year for~~
29 ~~which this article is operative. The Department of Finance's report~~
30 ~~shall include information regarding revenues, payment of awards,~~
31 ~~reserves held for future commitments, unencumbered cash~~
32 ~~balances, and other matters that the Director of Finance determines~~
33 ~~may be of importance to the Legislature.~~

34 *SEC. 12.* Section 454.1 of the Public Utilities Code, as added
35 by Chapter 1040 of the Statutes of 2000, is amended and
36 renumbered to read:

37 464. (a) Reasonable expenditures by transmission owners
38 that are electrical corporations to plan, design, and engineer
39 reconfiguration, replacement, or expansion of transmission
40 facilities are in the public interest and are deemed prudent if made

1 for the purpose of facilitating competition in electric generation
2 markets, ensuring open access and comparable service, or
3 maintaining or enhancing reliability, whether or not these
4 expenditures are for transmission facilities that become
5 operational.

6 (b) The commission and the Electricity Oversight Board shall
7 jointly facilitate the efforts of the state's transmission owning
8 electrical corporations to obtain authorization from the Federal
9 Energy Regulatory Commission to recover reasonable
10 expenditures made for the purposes stated in subdivision (a).

11 (c) Nothing in this section alters or affects the recovery of the
12 reasonable costs of other electric facilities in rates pursuant to the
13 commission's existing ratemaking authority under this code or
14 pursuant to the Federal Power Act (41 Stat. 1063; 16 U.S.C. Secs.
15 791a, et seq.). The commission may periodically review and adjust
16 depreciation schedules and rates authorized for an electric plant
17 that is under the jurisdiction of the commission and owned by an
18 electrical corporation and periodically review and adjust
19 depreciation schedules and rates authorized for a gas plant that is
20 under the jurisdiction of the commission and owned by a gas
21 corporation, consistent with this code.

22 ~~SEC. 2.~~

23 *SEC. 13.* Section 780.5 of the Public Utilities Code is
24 amended to read:

25 780.5. The commission shall require every residential unit in
26 an apartment house or similar multiunit residential structure,
27 condominium, and mobilehome park for which a building permit
28 has been obtained on or after July 1, 1982, other than a dormitory
29 or other housing accommodation provided by any postsecondary
30 educational institution for its students or employees and other than
31 farmworker housing, to be individually metered for electrical and
32 gas service, except that separate metering for gas service is not
33 required for residential units which are not equipped with gas
34 appliances requiring venting or are equipped with only vented
35 decorative appliances or which receive the majority of energy used
36 for water or space heating from a solar energy system or through
37 cogeneration technology.

